



**WAITSFIELD DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND NOTICE OF DECISION-
FINAL PLAN REVIEW**

Application #:	SUB 16-02
Land Owner:	Barbara Tardiff
Representative:	Gunner McCain, McCain Consulting
Property Address:	41 Sugarhouse Lane
Parcel Number:	42008.000 in the Agricultural-Residential Zoning District
Meeting Dates:	Sketch Plan & Final Plan Review June 14, 2016
Proposal/Type:	Request for sketch and final subdivision approval to revise the building envelope in order to allow for inclusion of an accessory structure on the northwest side of the existing single family residence.

I. FINDINGS OF FACT

1. The subdivision application was considered under the following guiding ordinance and policy provisions:
 - a. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through May 17, 2010, Section 2.07, Agricultural-Residential District (AR).
 - b. Waitsfield Subdivision Regulations, adopted January 21, 2008.
 - c. Waitsfield Town Plan, as adopted on October 22, 2012.
2. On May 20, 2016, the applicant submitted a complete subdivision application with cover page narrative, proposed site plans, project location map, a list of abutting property owners, and the architectural drawings of the proposed accessory structure.
3. On May 27, 2016, the applicant submitted certified mail receipts confirming that the abutters were mailed notice of the hearing.

4. On June 7, 2016, the applicant submitted the signed Posting Sign Protocol form via email to the ZA.
5. The property is located at 41 Sugarhouse Lane, and consists of a 5-acre +/- parcel with an existing single-family residence.
6. The applicant proposed to revise the building envelope in order to allow for inclusion of an accessory structure on the northwest side of the existing single-family residence.
7. The proposed accessory structure will be used as a personal yoga studio.
8. The proposed structure's location is on a ledge outcrop with a slope in excess of 25%, so the structure will be elevated on concrete piers.
9. The slope is comprised mainly of ledge which could help minimize the impact of development.
10. There is no proposed clearing related to the project, so the structure should not be any more visible from off-site than the existing house
11. The applicant requested that the board hold Sketch Plan Review and, if deemed a "minor" subdivision, that Final Plan Review occur on the same evening.
12. The board opened sketch plan review on June 14, 2016. After the applicant presented the proposal, the board deemed this a "minor" subdivision and opened Final Plan Review.
13. The board requested a site visit prior to adjourning the Final Plan Review hearing, so they continued the hearing to June 28, 2016 and scheduled the site visit for 6pm that same evening.
14. The board visited the site and noted the proposed area for the new accessory structure, the vacant land within the approved building envelope, and other alternative sites both inside and outside of the existing building envelope but on level grade.
15. The board continued the hearing on Final Plan Review. The members noted that the building envelope had been amended once prior to allow for the garage.
16. The applicant estimated that the average range of the slope on the proposed site for the new accessory structure was about 40%.
17. The board discussed their concerns about the steep slope provisions in the Subdivision Regulations with the applicant. The Subdivision Regulations include the following Section 3.3(D)(1-2):

(D) Protection of Steep Slopes & Ridgelines. Lot boundaries and development envelopes shall be located and configured to minimize undue adverse impacts to slopes greater than 15%, to avoid disturbance to slopes in excess of 25%, and to avoid the placement of structures on ridgelines. Methods for avoiding such adverse impacts include but may not be limited to the following:

(1) Development envelopes shall be located to exclude these features. In the event that development on slopes greater than 15% is necessary to achieve the most desirable subdivision design for a site, the Development Review Board may limit clearing, excavation and filling on such lands to the greatest extent practical, and may require the preparation and implementation of an erosion control plan for the property, in accordance with Section 3.5, as a condition of approval.

(2) Excavation, filling and development on slopes in excess of 25% shall be avoided.

18. The board provided some guidance to the applicant about their preference for an amended plan which addressed issues and limitations, specifically the steep slope restrictions, within the Subdivision Regulations. In lieu of a denial, they wanted to provide feedback and an opportunity for the applicant to amend the proposal, and requested that the ZA provide their comments in writing prior to the next hearing.
19. The board continued Final Plan Review to Tuesday, July 12, 2016, and stated that written feedback would be provided following the June 28, 2016 hearing.
20. The ZA emailed and mailed the applicant and her representative, Mr. McCain, the board's comments on June 30, 2016.
21. The applicant submitted a revised proposal for the new accessory structure at the July 12, 2016 hearing; the structure was relocated back toward the house about 10 feet. Only two of the four proposed footers would be on the slope. The site plan contained 5' contours.
22. The applicant clarified that the revised proposal included a roof pitched back toward the house, a 3.5 square foot cement footer with rebar drilled into the ledge, and steel posts for support. She also reiterated that the Subdivision Regulation provision on steep slope protection that the board cited seemed to be ambiguous or unclear, and she was not sure what adverse "impact" meant. The applicant believed there would be no impact because

it was ledge and no erosion was possible, there would be no disturbance to the slope, and this is the preferred location for the overall design of the parcel.

23. The board discussed alternative sites for the structure within and outside of the existing building envelope that would not involve the slope and ledge.
24. The board adjourned Final Plan Review. They stated that a written determination would be issued within 45 days.
25. A majority of the board believe that extending the building envelope as proposed in the revised plan dated July 12, 2016 would violate the requirement in the Subdivision Regulations that "development on slopes in excess of 25% shall be avoided," especially when there are locations which would allow for the new structure and are not on grades in excess of 25%.
26. The site visit revealed multiple alternative sites within the existing building envelope, as well as locations outside of the existing envelope, that would accommodate the proposed structure without encroaching onto steep slopes.

II. CONCLUSIONS OF LAW

Based on its review of the application materials, submitted site plans, presented testimony, supporting materials, and Findings of Fact above, the Waitsfield Development Review Board hereby concludes that the proposed building envelope revision does not meet the Subdivision Regulation standards; specifically, the proposed subdivision is not consistent with the purpose of the Protection of Steep Slopes & Ridgelines provision (Section 3.3).

III. DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, FINAL PLAN REVIEW for #SUB 16-02 is DENIED.

Dated at Waitsfield, Vermont this 26 day of July, 2016 for the Town of Waitsfield Development Review Board by:



Chris Cook, Development Review Board Chair

Voting in the Affirmative: Gib Geiger and Rudy Polwin.

Abstaining: None.

Voting in the Negative: Chris Cook, John Donaldson, and Brian Shupe.

Absent: Chris Jernigan.

Appeal

Pursuant to Title 24 VSA §4471 and §4472, an interested person who has participated in the review of this application may appeal this decision to the Environmental Division of the Vermont Superior Court by filing a Notice of Appeal directly to the Court, 32 Cherry Street, Suite 303, Burlington, Vermont 05401, by certified mail within thirty (30) days of the date this decision is issued. A copy of the notice must also be sent to the Zoning Administrator or the Municipal Clerk who is required to provide a list of interested persons to the appellant within five days of receipt of the Notice. The appellant is required to send a copy of the Notice, via certified mail, to each interested person.